

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOSEPH DEEGAN,

Plaintiff,

v.

Case No. 10-C-1148

ERIC SAUNDERS, SGT. DANIEL NELSON,
and OFFICER ROGER KYBURZ,

Defendants.

ORDER

The plaintiff, a state prisoner, filed a pro se complaint under 42 U.S.C. § 1983, alleging that his civil rights were violated. The court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the matter arises under federal statutes. Venue is proper under 28 U.S.C. § 1391. The case was assigned according to the random assignment of civil cases pursuant to 28 U.S.C. § 636(b)(1)(B) and General Local Rule 72.1 (E.D. Wis.). On May 10, 2011, the matter was reassigned to this court when the parties consented to the exercise of jurisdiction by this court.

In an Order dated April 11, 2011, the court granted the plaintiff's motion for leave to proceed in forma pauperis and screened the plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a). The plaintiff was allowed to proceed on Eighth Amendment conditions of confinement claims against defendants Daniel Nelson, Eric Saunders, and Roger Kyburz in their individual capacities. On June 9, 2011, the defendants filed a motion to dismiss for failure to state a claim. The plaintiff did not file a timely response. In a September 27, 2011, order, the plaintiff was directed to file a response to the motion to dismiss on or

before October 27, 2011. The plaintiff also was warned that failure to file such a response in a timely fashion may result in dismissal of this action. The plaintiff did not file a response. Accordingly, this case will be dismissed with prejudice for failure to prosecute.

NOW, THEREFORE, IT IS HEREBY ORDERED that this action be and hereby is **dismissed**.

IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment accordingly.

Dated at Milwaukee, Wisconsin this 15th day of November, 2011.

BY THE COURT:

/s Patricia J. Gorence
Patricia J. Gorence
United States Magistrate Judge